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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212270
Party	Defendant The Guesty Corp. dba Smith & Jones
Correspondence Address	MAXINE L BARASCH KEOHANE & D'ALESSANDRO PLLC 1881 WESTERN AVE ALBANY, NY 12203-6021 UNITED STATES
Submission	Answer
Filer's Name	Maxine L. Barasch
Filer's e-mail	mb@kdiplaw.com
Signature	/Maxine L. Barasch/
Date	10/10/2013
Attachments	Opposition Answer.pdf(88703 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SMITH & JONES ADVERTISING, INC.,
Opposer,

vs.

THE GUESTY CORP.,
Applicant.

In the Matter of Trademark
Application No. 85/834,876

Mark: SMITH & JONES

Filed: January 29, 2013
Published: July 2, 2013
Opposition No. 91212270

ANSWER TO NOTICE OF OPPOSITION

The Guesty Corp. DBA Smith & Jones (“Applicant”), a corporation located and doing business at 297 River Street, Troy, NY 12180, by its attorney, hereby answers the Notice of Opposition (“Notice”) of Smith & Jones Advertising, Inc. (“Opposer”), and admits, denies, and alleges as follows:

Applicant denies that Opposer will be damaged by registration of the mark identified in Application Serial No. 85/834,876 (“Applicant’s Application”).

1. Admitted.
2. Admitted.
3. Admitted as to Applicant’s use of the mark SMITH & JONES (“Applicant’s mark”) in connection with healthcare marketing, but notes that Applicant uses the mark in connection with marketing in fields other than healthcare as well.
4. Admitted as to Applicant’s mark was published for opposition in the Official Gazette on July 2, 2013. Applicant is without knowledge or information sufficient to form a belief as to the truth of whether on August 1, 2013, Opposer

timely filed a request for a 30-day extension of time to oppose the Application for Applicant's Mark, and therefore Applicant denies this allegation.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph of the Notice, and therefore Applicant denies those allegations.
6. Denied as to each and every allegation of this paragraph of the Notice.
7. Denied as to each and every allegation of this paragraph of the Notice.
8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph of the Notice, and therefore Applicant denies those allegations.
9. Denied as to each and every allegation of this paragraph of the Notice.

COUNT I

1. Denied as to each and every allegation of this paragraph of the Notice.

COUNT II

1. Denied as to each and every allegation of this paragraph of the Notice.

COUNT III

1. Denied as to each and every allegation of this paragraph of the Notice.

AFFIRMATIVE DEFENSE I

1. Opposer has failed to state a claim for which relief can be granted.

AFFIRMATIVE DEFENSE II

1. Opposer has used unreasonable delay in assertion of its alleged rights against Applicant and assertion of these alleged rights in light of this delay would lead to material prejudice with respect to Applicant.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed with prejudice, and the Applicant's Application pass to registration on the Principal Register.

Respectfully submitted,

Date: October 10, 2013

/Maxine L. Barasch/
Maxine L. Barasch, Esq.
Attorney for Applicant
Keohane & D'Alessandro, PLLC
1881 Western Avenue
Albany, NY 12203
Ph: (518) 456-7084
Fax: (518) 456-7004

CERTIFICATE OF SERVICE
Opposition No. 91212270

I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has been served on SMITH & JONES ADVERTISING, INC., by and through its attorney of record, Jodi-Ann McLane, by depositing said copy with the United States Postal Service with sufficient postage as First Class Mail on the date indicated below and is addressed to:

Jodi-Ann McLane, Esq.
Imagine That Patents, LLC
PO Box 555
Warren, RI 02885

Date of Deposit: October 10, 2013

By: /Maxine L. Barasch/
Maxine L. Barasch
Attorney for Applicant
Keohane & D'Alessandro, PLLC
1881 Western Avenue
Albany, NY 12203
Ph: (518) 456-7084
Fax: (518) 456-7004